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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

NORINE BOEHMER, et al., as Trustees, etc., Plaintiff and Respondent, v. CHALA REKAY HODGE, Defendant and Appellant.	B299529 (Los Angeles County Super. Ct. No. 17STPB08490)

APPEAL from an order of the Superior Court of Los Angeles County, David Cowan, Judge. Dismissed.

Law Office of Tamila C. Jensen and Tamila C. Jensen for Defendant and Respondent.

Chala Rekay Hodge, in pro per., for Plaintiff and Appellant.

INTRODUCTION

Appellant Chala Rekay Hodge appeals the court's denial of petitioner and respondent Norine Boehmer's motion to enforce a settlement agreement. Because the order is not appealable, the appeal is dismissed.

FACTUAL AND PROCEDURAL BACKGROUND[1]

Chala Rekay Hodge is the mother of Chala Renay Hodge, who is a disabled adult.[2] Rekay is the conservator of the person for her daughter, but not the conservator of her daughter's estate. The trial court appointed James Shields as a Probate Volunteer Panel Attorney to represent Renay, but he is not involved in this appeal. The dispute that is subject of this appeal concerns residential real property located at 701-703 Marlborough Avenue, Inglewood, California (Marlborough property), which was owned as joint tenants by Renay's father, Bobby Hodge, who is deceased, and Betty J. Hanson, Renay's grandmother.

After Bobby died, Rekay and Hanson engaged in a dispute over the estate in probate court. They reached a settlement agreement whereby, on November 22, 2004, Hanson created the

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[1] Appellant only designated for the record on appeal a May 6, 2019 minute order, her notice of appeal, and her notice designating the record on appeal. Respondent filed a motion to augment the record that was granted. The factual and procedural background related here is culled from the exhibits that were attached to the motion.

[2] Given the mother and daughter share the same first and last names, to distinguish them and to avoid confusion, we use their middle names.

Chala Renay Hodge Special Needs Trust for Renay's benefit, and Pamela Muir was named trustee.[3] Hanson conveyed the Marlborough property to the Trust. The trial court approved this settlement agreement on December 22, 2004. The Trust specifically provides that Renay is the only beneficiary and Rekay would not be a trustee. Rekay challenged this settlement agreement, but her attempts to set it aside were denied.

Boehmer and Dawn Mills became successor trustees of the Trust in August 2013. On September 19, 2017, Boehmer and Mills (trustees) filed in probate court a "Petition for Instructions Sale of House and to Bring Trust Under Court Supervision" (Petition for Instructions) under Probate Code section 17200 et seq. They sought authority to sell the Marlborough property because there was little cash in the Trust, the property needed repairs, and they wanted to be in position to meet Renay's needs in the future. Rekay objected to the petition for authority to sell the Marlborough property.

On January 26, February 13, and April 25, 2018, the trustees filed supplements to the Petition for Instructions and, in addition to seeking authorization to sell the Marlborough property, they sought authorization to obtain a loan so there would be funds to manage the property and provide resources for Renay. In the January 26, 2018 filing, the trustees related that Rekay and Shields, as Renay's attorney, had agreed to the sale of the property and that Rekay and Renay would move into a

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[3] In her brief on appeal, Boehmer sometimes refers to Hanson as "Hansen." Because the name of the person that appears in the Trust document as signatory and elsewhere is "Hanson," we use that surname here.

suitable dwelling; however, Rekay had changed her mind and again would not cooperate with the sale.

After a mandatory settlement conference to resolve the issues, on June 26, 2018, Rekay and the trustees entered into a binding settlement agreement. The court read the agreement into the record. Among other things, the terms of the parties' settlement were that the Trust was placed under the court's jurisdiction; the court authorized the trustees to sell the property; and while the property was being marketed for sale, Rekay was to seek a new residence. The court granted the trustees' petition for instructions on those terms, and all parties, including Rekay and Shields, agreed to them.

Rekay, therefore, agreed the Marlborough property would be sold, another residential property would be bought to replace it for Renay's benefit, and funds would exist for administration of the Trust and for Renay. On December 5, 2018, the court entered an order with instructions based on the June 26, 2018 settlement agreement. The Marlborough property was then sold; the court confirmed and approved the sale on December 17, 2018.

On February 1, 2019, Rekay filed an objection to the confirmation of the sale, asserting it was not in Renay's best interest and was not authorized by Bobby's will. On March 8, 2019, Rekay also objected to a "Proposed Statement of Decision and Judgment" because the June 26, 2018 settlement agreement and October 11, 2018 authorization of the sale of the Marlborough property "was without [her] approval."

On April 2, 2019, the trustees then filed a motion for an order enforcing the June 26, 2018 settlement agreement because Rekay had refused to consider properties that had been proposed as a new residence and she sought to set aside the entire Trust.

The trustees also asked the court to authorize them to use their discretion to purchase a new residence without Rekay's approval. The court denied the motion without prejudice on May 6, 2019. It noted the motion was improper because the Marlborough property had been sold "and the issue is not contemplated by the agreement."

Thereafter, Rekay filed several challenges to the trustees' authority to sell, and the sale of, the Marlborough property—including a June 12, 2019 ex parte application, denied on June 13, 2019; July 11, 2019 letter brief and declaration concerning denial of settlement agreement; and September 9, 2019 motion for reconsideration of sale of probate property, denied on October 22, 2019 .

On July 25, 2019, Rekay filed a notice of appeal. In her notice of appeal, Rekay states she is appealing from a judgment after a court trial on May 6, 2019. But there was no court trial on that date. However, the trustees' motion, pursuant to Code of Civil Procedure section 664.6, to enforce the settlement agreement was heard at that time. Rekay opposed the motion, and the court denied it. Therefore, Rekay prevailed on the motion.

DISCUSSION

A. *The May 6, 2019 Order Is Not Appealable*

An appeal may be taken only from a final judgment that completely disposes of the matter in controversy. (Code Civ. Proc., § 904.1, subd. (a)(1).) Specifically, regarding probate matters, "[a]n appeal . . . may be taken . . . [f]rom an order made appealable by the Probate Code . . . ." (Code Civ. Proc. § 904.1,

subd. (a)(10).) Appeals that may be taken from orders in probate proceedings are set forth in Probate Code sections 1300 (appealable orders under the Probate Code generally), 1301 (appealable orders relating to guardianship and conservatorship proceedings), 1302 (appeals respecting power of attorney), 1303 (appealable orders relating to administration of decedent's estate), and 1304 (appealable orders relating to trusts); and those provisions are exclusive. (*Estate of Stoddart* (2004) 115 Cal.App.4th 1118, 1125-1126 (*Stoddart*) ["'There is no right to appeal from any orders in probate except those specified in the Probate Code'"].)

Neither the Probate Code nor the Code of Civil Procedure explicitly authorizes an appeal from an order denying enforcement of a settlement agreement. While an order granting a motion to enforce a settlement agreement can be appealable if it amounts to a final judgment disposing of the entire action (*Viejo Bancorp, Inc. v. Wood* (1989) 217 Cal.App.3d 200, 205), one denying such a motion is not appealable because issues remain for consideration by the court. (*Walton v. Mueller* (2009) 180 Cal.App.4th 161, 167; *Doran v. Magan* (1999) 76 Cal.App.4th 1287, 1292-1294.) Moreover, an appeal of an order concerning a settlement agreement is not one of the orders listed in Probate Code section 1304.

The appealability of a probate matter is not necessarily determined based on the label given the order. The effect of the order controls a party's right to appeal rather than its form. For that reason, a probate order that is in effect an order that is expressly made appealable by the Probate Code is itself appealable. (*Estate of Miramontes-Najera* (2004) 118 Cal.App.4th 750, 755.) There is nothing about the court's denial of the motion

to enforce the settlement agreement, however, that is tantamount in effect to an order expressly made appealable by the Probate Code, and Rekay offers no cogent argument nor citation to any authority to the contrary.

We acknowledge a self-represented litigant's understanding of the rules on appeal is likely more limited than an experienced appellate attorney's, and whenever possible, we will not strictly apply technical rules of procedure in a manner that deprives a litigant of a hearing. Nevertheless, we must apply the procedural and substantive principles and rules of appellate review to a self-represented litigant's arguments on appeal, just as we would to arguments by litigants represented by attorneys. (See *In re Marriage of Furie* (2017) 16 Cal.App.5th 816, 824; *Hopkins & Carley v. Gens* (2011) 200 Cal.App.4th 1401, 1413-1414.)

Rekay offers no statutory authority in support of any contention that she can appeal the denial of the May 6, 2019 motion, although it is her burden on appeal to set forth authority for the appeal. As Rekay has offered no legal authority, she has not established any error in the instant case, and the appeal is dismissed.[4]

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[4] Rekay's appeal of the May 6, 2019 order is also deficient under the circumstances because Rekay lacks standing in that she cannot demonstrate she is an aggrieved party as to that ruling. Rekay prevailed on the motion because the court's order was in her favor. As such, Rekay suffered no legal injury and, therefore, she lacks authority to raise the issue on appeal. (Code Civ. Proc., § 902 ["[a] party aggrieved may appeal in the [civil] cases prescribed in this title"]; *County of Alameda v. Carleson* (1971) 5 Cal.3d 730, 736-737 [to have standing to appeal, a

B. *In Her Appellate Briefs, Rekay Challenges Court Rulings as to Which She Did Not File an Appeal*

In reviewing Rekay's opening and reply briefs to determine the issues she is raising on appeal and which, if any, can be reached by this court, it is clear Rekay raises several issues that are tangential to her appeal of the May 6, 2019 order. Those issues are not supported by the record, lack clarity, and are not sufficiently developed to be cognizable on appeal. (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608, 626.)

Rekay appears to attempt to challenge rulings that were not identified in her notice of appeal. For example, in her opening and reply briefs on appeal, Rekay states the June 26, 2018 "Settlement Agreement doesn't comply with California General Rules of Contract Law"; the court erred by confirming the sale of the property; the court ruled "on May 6, 2019, that the settlement agreement lacks Breach of contract language, and therefore, the settlement agreement was void"; the order "confirming sale of real property date[d] January 28, 2019, was an illegal egregious action without jurisdiction or authority"; and only a specific Department in the Probate Department of the Los Angeles County Superior Court (Department 3) has jurisdiction to supervise and enforce the terms of the June 26, 2018 settlement agreement, therefore Department 11, which confirmed the sale of the Marlborough property, lacked jurisdiction to supervise and enforce the terms of the June 26, 2018 settlement agreement. Additionally, Rekay complains about the initial

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person must be aggrieved in the sense that her rights or interests are injuriously affected].)

settlement agreement reached in 2004, out of which a determination was made to establish the Trust for Renay's benefit.

To the extent Rekay is challenging the settlement agreement the court accepted on June 26, 2018, that order is not appealable. As Boehmer points out, that settlement was reached during a mandatory settlement conference that took place in Probate Court. Probate Court section 1304 controls the appealability of orders issued in trust matters, and an appeal of an order concerning a settlement agreement is not one of the orders listed in that statute.

Even more significantly, even if Rekay's notice of appeal were to be considered to apply to the court's June 26, 2018 order, the appeal would be untimely, as it was filed more than 180 days after the settlement was placed on the record. (See Cal. Rules of Court, rule 8.104(a)(1)(C) [time limit for bringing an appeal is 180 days from entry of judgment or order]; *Van Beurden Ins. Services, Inc. v. Customized Worldwide Weather Ins. Agency, Inc.* (1997) 15 Cal.4th 51, 56 [deadlines for filing appeal are jurisdictional and appellate court may not consider appeals not timely filed]; *Estate of Reed* (2017) 16 Cal.App.5th 1122, 1127 [orders listed as appealable in the Probate Code must be timely appealed or they will become final and binding].)

Rekay also takes exception to the sale of the Marlborough property. Under Probate Code section 1300, an order confirming the sale of real property is appealable. (Pro. Code, § 1300, subd. (a) [appeal may be taken from order directing, authorizing, approving, or confirming sale of property]; see also *Estate of Martin* (1999) 72 Cal.App.4th 1438, 1442-1443 [order denying request to vacate nonconfirmed sale of stock deemed appealable

under Probate Code section 1300, subdivision (a), as tantamount to an order approving underlying sale].)

However, in the instant case, Rekay did not file an appeal from the order issued by the court on January 30, 2019, confirming the sale of the Marlborough property. Nor did Rekay object to the order at the time it was issued. She later sought to have the court reconsider the sale. But her efforts in that regard took place and failed months after she had filed her notice of appeal, and she has not challenged the court's October 22, 2019 order denying her request for reconsideration.[5]

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[5] An appeal of the denial of Rekay's motion for reconsideration would not lie, in any event. Code of Civil Procedure section 904.1, subdivision (a)(10), provides an appeal may be taken "[f]rom an order made appealable by the provisions of the Probate Code . . ." An order denying a motion for reconsideration is not among the orders made appealable by the Probate Code. (See Prob. Code, § 1304.) "[T]o allow an appeal from an order denying a motion for reconsideration would be contrary to the Probate Code's purpose to foster the expeditious resolution of estate matters." (*Stoddart, supra*, 115 Cal.App.4th at p. 1126.)

DISPOSITION

Rekay's appeal of the May 6, 2019 order is dismissed, as that order is not appealable. Boehmer is to recover her costs on appeal.

RICHARDSON, J.*

We concur:

SEGAL, Acting P. J.

FEUER, J.

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* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.